IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 13TH APRIL 2007 / 23RD CHAITHRA 1929

Crl.MC.No. 1193 of 2007()

CC.760/2001 of JUDL. MAGISTRATE OF FIRST CLASS COURT, PARAPPANANGADI

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PETITIONER: ACCUSED NO.2

PERUVAKUZHIYAN ALI @ MOHAMMED ALI,
@ MOHAMMED ALI, AGED 32, S/O.ABDU HAJI,
VENNIYOOR, THIRURANGADI TALUK.

BY ADV. SRI.K.K.MOHAMED RAVUF

RESPONDENTS:

THE STATE OF KERALA, REPRESENTED BY
STATION HOUSE OFFICER, THENHIPPALAM POLICE
STATION THROUGH PUBLIC PROSECUTOR, HIGH COURT
OF KERALA.

BY PUBLIC PROSCUTOR SRI.S.U. NAZAR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 13/04/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 1193 of 2007

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Dated this the 13th day of April, 2007

O R D E R

The petitioner faces indictment in a prosecution under the provisions of the Arms Act. His co-accused has already been tried and acquitted. The case against the petitioner has been split up. The petitioner submits that he had no knowledge about the proceedings initiated against him. No notice has been served on him. He was unaware of the prosecution. The learned Magistrate has now issued a non-bailable warrant to procure the presence of the petitioner. According to the petitioner he has valid reasons to raise for not appearing earlier before the learned Magistrate. The petitioner is willing to surrender before the learned Magistrate. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is in these circumstances prayed that appropriate directions may be issued to the learned Magistrate to release the petitioner on bail on the date of surrender itself.

2. It is certainly for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the application for bail on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339).

3. This Crl.M.C. is accordingly dismissed, but subject to the above observations/directions. I may hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

4. Hand over copy of the order.

(R. BASANT)
Judge

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